No. 86-1551

In the Supreme Court of the United States

OCTOBER TERM, 1986

NARCISO RAFAEL PEREZ DE LA CRUZ, et ano.,
PETITIONER,

v.

CROWLEY TOWING & TRANSPORTATION CO.,
RESPONDENT.

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

J. RAMON RIVERA-MORALES *
JIMENEZ, GRAFFAM & LAUSELL
G.P.O Box 6104
San Juan, Puerto Rico 00936
Tel: (809) 767-1030
Attorneys for Respondent Crowley Towing & Transportation Company

* Attorney of Record

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Statement of the Case

The petitioner is a resident of Puerto Rico who served as a seaman aboard the tugboat PAWNEE, which at the time in question operated out of San Juan Harbor. The respondent was the operator of the tugboat and the petitioner's employer.[1] As an employer it had a fully insured status with the Puerto Rico State Insurance Fund under the terms of the Puerto Rico Workmen's Accident Compensation Act ("PRWACA"), 11 P.R. Laws Ann. §§ 1-42.

[1] Pursuant to Supreme Court Rule 28.1, it is stated that the respondent, Crowley Towing and Transportation Company, is a wholly-owned subsidiary of Crowley Maritime Corporation.

On September 19, 1983 the petitioner suffered an accident aboard the tugboat when he fell on a ladder. Subsequently he filed suit against the employer (tugboat operator) to recover damages for injuries sustained from the fall. It is now undisputed that the accident occurred approximately six miles off the coast of Puerto Rico.

The employer (tugboat operator) moved to dismiss the complaint for, among other reasons, employer immunity under the Puerto Rico workmen's compensation statutory scheme. The petitioner-seaman opposed the motion contending the accident had occurred outside of the jurisdiction of the Commonwealth of Puerto Rico, and thus its local laws were not applicable to the accident. The petitioner argued that once outside of Puerto Rico his remedy was a federal one under the Jones Act, 46 U.S.C. §688, and the general maritime law, and not under the benefits provided by the local workmen's compensation laws.

The petitioner (seaman) sustained the position that the laws of Puerto Rico had an application only up to three miles from its coast. The respondent (employer) held the position that the laws of Puerto Rico were applicable seaward to a distance of three marine leagues (10.38 miles).

The question of what law was applicable, federal or Puerto Rico, turned upon the interpretation of 48 U.S.C. §749 (Section 8 of the Puerto Rican Federal Relations Act). This section provides in its pertinent part:

> The harbor areas and navigable streams and bodies of water and submerged lands underlying the same in and around the island of Puerto Rico..., be, and are hereby, placed under the control of the government of Puerto Rico...
>
> (2) 'navigable bodies of water and submerged lands underlying the same in and around the island of Puerto Rico and the adjacent islands and waters' extend from the coastline of the island of Puerto Rico..., seaward to a distance of three marine leagues....

The petitioner contended that the correct interpretation of this section limited it exclusively to matters concerning mineral resources. The respondent argued that this section of the Federal Relations Act applied to all areas of Puerto Rico law and the application of the same to the surrounding waters.

The district court accepted the position of the respondent and dismissed the complaint on a motion for summary judgment. The Court of Appeals for the First Circuit, after receiving argument from the United States and the Commonwealth of Puerto Rico as amicus curiae, affirmed. The decision is reported at 807 F.2d 1084 (1st Cir. 1986).

Reasons for Denying the Writ

The petitioner sets forth two questions presented for review. The first concerns the question of Congress' intent in enacting the amendment to section 749 which speaks of a seaward extension of three marine leagues. The second concerns a supposed conflict between section 749 and the foreign policy position of the United States and its territorial sea.

Neither question presented is important enough to warrant the granting of a writ of certiorari.

I. This Case Concerns a Statute Which Is Clear and Unequivocal on Its Face

Both the district court and the Court of Appeals expressly held that section 749 was clear "on its face" as extending Puerto Rico's seaward jurisdiction three marine leagues seaward (10.38 miles). 807 F.2d at 1087. In arguing in favor of granting the writ the petitioner sustains, by quoting selected excerpts from the Congressional material, that the Court of Appeals committed error in not accepting the primary purpose of the amendment. But the opinion of the Court of Appeals for the First Circuit is clear that it did review the legislative history and that this material did not compel a limited interpretation of section 749. The Court stated:

> While we agree that most of the legislative history concerning the amendment suggests that Congress' major purpose in amending §749 was to give Puerto Rico the same rights to undersea minerals as certain coastal states were given by the Submerged Lands Act, 43 U.S.C. §1301 (1953), the legislative history expresses no intent to limit the plain language of the amendment which gives Puerto Rico control over the navigable waters within three marine leagues of the coastline.

The Court of Appeals' decision is neither contrary to any judicial interpretation of section 749, and its analysis violates none of the accepted rules of statutory interpretation. The lower courts simply read the statute, applied its plain meaning, and found nothing in the legislative history which otherwise clearly contradicted its plain meaning.

II. The Decision of the Court of Appeals Does Not Affect U.S. Foreign Relations

This action involved a Puerto Rico domicile suing a Puerto Rico-based employer. The Court of Appeals held that in such a situation, and within three marine leagues seaward from the coast of Puerto Rico, the Commonwealth's workmen's compensation statutes were applicable. Although the petitioner attempts to implicate questions of sovereignty and international relations, this case simply has nothing to do with either. It deals solely with a limited domestic concern of Puerto Rico and the application of Puerto Rico law to its residents. As the Court of Appeals stated (807 F.2d at 1088, fn. 2) in precise terms:

> The United States in its amicus brief suggests that an affirmance of the district court's judgment will wreak havoc with this country's international relations. This argument seems to be premised on the notion that our decision will have some effect on the boundaries of Puerto

> Rico's territorial waters. As must be obvious from our holding, we express no opinion on the extent of Puerto Rico's territorial waters with relation to the rights of other countries. Especially, nothing herein is to be taken as diminishing the rights of the United States in the questioned waters with respect to international relations, national defense, or control over the transit of its own or foreign vessels. Our holding concerns only the extent to which Puerto Rico may dictate the exclusive remedy for its residents who sustain injury within three marine leagues of its coastline. *Cf. United States* v. *Louisiana*, 363 U.S. 1, 32-36 (1960) (Submerged Land Act's extension of certain states' mineral rights to three marine leagues has no effect on international borders.

This case, therefore, also has nothing to do with, and does not in any way affect, the three mile territorial sea of the United States.

Conclusion

The present case presents no issue of consequence with respect to section 749, or to concepts of judicial interpretation. The case also presents a very limited lower court holding which does not in any way implicate, much less endanger, this Nation's international relations.

The Petition for a Writ of Certiorari should be denied.

Respectfully submitted,

J. Ramon Rivera-Morales*
Jimenez, Graffam & Lausell
G.P.O Box 6104
San Juan, Puerto Rico 00936
Tel: (809) 767-1030
Attorneys for Respondent
Crowley Towing &
Transportation Company

* Attorney of Record